

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF SOUTH CAROLINA
(Charleston)**

IN RE:

Moss Construction of the Low
Country, LLC,

Debtor.

C/A No. 17-04252-dd

Chapter 7

Prairie Son Properties, LLC,

Plaintiff,

vs.

Michelle L. Vieira, as Chapter 7 Trustee for
Moss Construction of the Lowcountry, LLC;
Buck Lumber and Building Supply, Inc.;
Creighton Likes, Jr.; Richard Zollweg; and
Sandra Zollweg,

Defendants.

Adversary No. 17-80079-dd

**Answer of Prairie Son Properties, LLC, to
counterclaim of Trustee**

Prairie Son Properties, LLC (PSP), answering the Trustee's counterclaim, respectfully shows the following:

FOR A FIRST DEFENSE

1. PSP's allegations in the complaint are incorporated as if set forth verbatim.

FOR A SECOND DEFENSE

2. Any allegation not admitted is denied.

FOR A THIRD DEFENSE

3. Paragraph 23 is denied unless otherwise admitted.
4. Paragraphs 24, 25, 26, 27, 28 and 29 are admitted.
5. PSP does not have enough information or knowledge to form an opinion on the truth or falsity of paragraph 30.

6. Paragraphs 31 and 32 are denied. Further responding to these paragraphs, before the Moss Construction of the Low Country, LLC (Moss), petition in bankruptcy was filed, counsel for PSP notified all counsel involved in the bankruptcy bearing bankruptcy number 16-05924 (Zollweg bankruptcy) and the adversary proceeding bearing bankruptcy number 17-80036 (Zollweg adversary), by electronic mail, regarding, among other matters, about the property at 68 Gilded Lane, Bluffton, South Carolina, of his opinion that PSP held a first lien position regarding rents and profits generated by that property. Following notification of the filing of the Moss petition in bankruptcy, counsel for PSP reiterated his view regarding rents and profits generated by the property in another electronic mail communication to all counsel.
7. Paragraph 33 is admitted to the extent it alleges counsel for the Trustee, in response to PSP's counsel's electronic mail, claimed the Trustee was entitled to the rental payments and suggested if PSP wished to pursue those payments, it should file a motion under 11 U.S.C. 362. The balance of the paragraph is denied.
8. Paragraph 34 is admitted to the extent it alleges PSP has not filed a motion under 11 U.S.C. 362. The balance of the paragraph is denied.
9. PSP does not have enough knowledge or information to form an opinion on the truth or falsity of paragraph 35.
10. Paragraph 36 is denied.
11. Paragraph 37 is denied unless otherwise admitted.
12. Paragraph 38 is admitted to the extent it alleges the existence of the Zollweg adversary. As to the balance of the paragraph, PSP admits the Trustee claims (s) recited in those allegations. Further responding to the balance of the paragraph, the allegations do not

comply with Fed.R.Civ.P. 8, applicable in this Court under Fed.R.Bankr.P. 7008, and should be stricken.

FOR A FOURTH DEFENSE

13. The allegations of this answer are incorporated as if set forth verbatim.

14. The Trustee's counterclaim fails to state a claim on which relief can be granted because communications between counsel setting forth the positions of their respective clients are not violations of the automatic stay and seeking a declaratory judgment regarding the lien or lien position of a secured creditor by way of an adversary action does not violate the automatic stay.

Wherefore, having answered the Trustee's counterclaim, PSP respectfully requests it be granted the relief requested in its complaint, the Trustee's counterclaim be dismissed with costs, and the Court grant PSP such other relief as may be proper.

CALLISON TIGHE & ROBINSON, LLC

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Columbia, South Carolina